

# Senate File 2332 - Introduced

SENATE FILE 2332

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2272)

(SUCCESSOR TO SSB 3170)

## A BILL FOR

1 An Act relating to enhanced 911 emergency communication  
2 systems, including surcharges and the allocation of moneys  
3 collected from such surcharges and replacing the existing  
4 surcharge on prepaid wireless service with a new surcharge  
5 collected at the point of retail sale, and including  
6 effective and applicability date provisions.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 34A.2, Code 2011, is amended to read as  
2 follows:

3 **34A.2 Definitions.**

4 As used in this chapter, unless the context otherwise  
5 requires:

6 1. *"Access line"* means an exchange access line that has the  
7 ability to access dial tone and reach a public safety answering  
8 point.

9 2. *"Administrator"* means the administrator of the homeland  
10 security and emergency management division of the department  
11 of public defense.

12 3. *"Communications service"* means a service capable of  
13 accessing, connecting with, or interfacing with a 911 system  
14 by dialing, initializing, or otherwise activating the system  
15 exclusively through the digits 911 by means of a local  
16 telephone device or wireless communications device.

17 4. *"Communications service provider"* means a service  
18 provider, public or private, that transports information  
19 electronically via landline, wireless, internet, cable, or  
20 satellite.

21 ~~3.~~ 5. *"Competitive local exchange service provider"* means  
22 the same as defined in section 476.96.

23 ~~4.~~ *"Emergency 911 notification device"* means ~~a product~~  
24 ~~capable of accessing a public safety answering point through~~  
25 ~~the 911 system.~~

26 6. *"Emergency communications service surcharge"* means a  
27 charge established by the program manager in accordance with  
28 section 34A.7A.

29 ~~5.~~ 7. *"Enhanced 911"* or *"E911"* means a service that  
30 provides the user of a communications service with the ability  
31 to reach a public safety answering point by dialing using the  
32 digits 911, and that has the following additional features:

33 a. Routes an incoming 911 call to the appropriate public  
34 safety answering point.

35 b. Automatically provides voice, displays the name, address

1 or location, and telephone number of an incoming 911 call and  
2 public safety agency servicing the location.

3 ~~6.~~ 8. "*Enhanced 911 service area*" means the geographic  
4 area to be serviced, or currently serviced under an enhanced  
5 911 service plan, provided that an enhanced 911 service area  
6 must at minimum encompass one entire county. The enhanced 911  
7 service area may encompass more than one county, and need not  
8 be restricted to county boundaries.

9 ~~7.~~ 9. "*Enhanced 911 service plan*" means a plan that  
10 includes the following information:

11 a. A description of the enhanced 911 service area.

12 b. A list of all public and private safety agencies within  
13 the enhanced 911 service area.

14 c. The number of public safety answering points within the  
15 enhanced 911 service area.

16 d. Identification of the agency responsible for management  
17 and supervision of the enhanced 911 emergency communication  
18 system.

19 e. (1) A statement of estimated costs to be incurred by the  
20 joint E911 service board or the department of public safety,  
21 including separate estimates of the following:

22 (a) Nonrecurring costs, including~~7~~ but not limited to~~7~~  
23 public safety answering points, network equipment, software,  
24 database, addressing, ~~initial~~ training, and other capital and  
25 ~~start-up~~ expenditures, including the purchase or lease of  
26 subscriber names, addresses, and telephone information from the  
27 local exchange service provider.

28 (b) Recurring costs, including~~7~~ but not limited to~~7~~  
29 network access fees and other telephone charges, software,  
30 equipment, and database management, and maintenance, including  
31 the purchase or lease of subscriber names, addresses, and  
32 telephone information from the local exchange service provider.  
33 Recurring costs shall not include personnel costs for a public  
34 safety answering point.

35 (2) Funds deposited in an E911 service fund are appropriated

1 and shall be used for the payment of costs that are limited  
 2 to nonrecurring and recurring costs directly attributable to  
 3 the provision receipt and disposition of the 911 emergency  
 4 ~~telephone communication service and may include costs~~  
 5 ~~for portable and vehicle radios, communication towers and~~  
 6 ~~associated equipment, and other radios and associated equipment~~  
 7 ~~permanently located at the public safety answering point~~  
 8 ~~and as directed by either the joint E911 service board or~~  
 9 ~~the department of public safety call.~~ Costs do not include  
 10 expenditures for any other purpose, and specifically exclude  
 11 costs attributable to other emergency services or expenditures  
 12 for buildings or personnel, except for the costs of personnel  
 13 for database management and personnel directly associated with  
 14 addressing.

15 *f.* Current equipment operated by affected local exchange  
 16 service providers, and central office equipment and technology  
 17 upgrades necessary for the provider to implement enhanced 911  
 18 service within the enhanced 911 service area.

19 *g.* A schedule for implementation of the plan throughout  
 20 the E911 service area. The schedule may provide for phased  
 21 implementation.

22 *h.* The number of telephone access lines capable of access to  
 23 911 in the enhanced 911 service area.

24 *i.* The total property valuation in the enhanced 911 service  
 25 area.

26 *j.* A plan to migrate to an internet protocol-enabled next  
 27 generation network.

28 ~~8.~~ 10. *"Local exchange carrier"* means the same as defined  
 29 in section 476.96.

30 ~~9.~~ 11. *"Local exchange service provider"* means a vendor  
 31 engaged in providing telecommunications service between  
 32 points within an exchange and includes but is not limited to  
 33 a competitive local exchange service provider and a local  
 34 exchange carrier.

35 12. *"Prepaid wireless telecommunications service"*

1 means a wireless communications service that provides the  
 2 right to utilize mobile wireless service as well as other  
 3 nontelecommunications services, including the download  
 4 of digital products delivered electronically, content and  
 5 ancillary services, which must be paid for in advance and that  
 6 is sold in predetermined units or dollars of which the amount  
 7 declines with use in a known amount.

8 ~~10.~~ 13. *"Program manager"* means the E911 program manager  
 9 appointed pursuant to section 34A.2A.

10 ~~11.~~ 14. *"Provider"* means a vendor who provides, or offers  
 11 to provide, E911 equipment, installation, maintenance, or  
 12 exchange access services within the enhanced 911 service area.

13 ~~12.~~ 15. *"Public or private safety agency"* means a unit of  
 14 state or local government, a special purpose district, or a  
 15 private firm which provides or has the authority to provide  
 16 fire fighting, police, ambulance, emergency medical services,  
 17 or hazardous materials response.

18 ~~13.~~ 16. *"Public safety answering point"* means a  
 19 twenty-four-hour public safety communications facility that  
 20 receives enhanced 911 service calls and directly dispatches  
 21 emergency response services or relays calls to the appropriate  
 22 public or private safety agency.

23 17. *"Wireless communications service"* means commercial  
 24 mobile radio service. "Wireless communications service"  
 25 includes any wireless two-way communications used in cellular  
 26 telephone service, personal communications service, or the  
 27 functional or competitive equivalent of a radio-telephone  
 28 communications line used in cellular telephone service, a  
 29 personal communications service, or a network access line.  
 30 *"Wireless communications service"* does not include a service  
 31 whose customers do not have access to 911 or 911-like service,  
 32 a communications channel utilized only for data transmission,  
 33 or a private telecommunications system.

34 18. *"Wireless communications service provider"* means a  
 35 company that offers wireless communications service to users

1 of wireless devices including but not limited to cellular,  
2 personal communications services, mobile satellite services,  
3 and enhanced specialized mobile radio.

4 ~~14.~~ 19. *"Wireless E911 phase 1"* means a 911 call made  
5 from a wireless device in which the wireless service provider  
6 delivers the call-back number and address of the tower that  
7 received the call to the appropriate public safety answering  
8 point.

9 ~~15.~~ 20. *"Wireless E911 phase 2"* means a 911 call made  
10 from a wireless device in which the wireless service provider  
11 delivers the call-back number and the latitude and longitude  
12 coordinates of the wireless device to the appropriate public  
13 safety answering point.

14 ~~16.~~ 21. *"Wire-line E911 service surcharge"* ~~is~~ means a charge  
15 set by the E911 service area operating authority and assessed  
16 on each wire-line access line which physically terminates  
17 within the E911 service area in accordance with section 34A.7.

18 Sec. 2. Section 34A.3, subsection 4, Code 2011, is amended  
19 to read as follows:

20 4. *Participation in joint E911 service board required.* A  
21 political subdivision ~~or state agency~~ having a public safety  
22 agency within its territory or jurisdiction shall participate  
23 in a joint E911 service board and cooperate in maintaining the  
24 E911 service plan.

25 Sec. 3. Section 34A.6, subsection 1, Code 2011, is amended  
26 to read as follows:

27 1. Before a joint E911 service board may request imposition  
28 of the wire-line surcharge by the program manager, the board  
29 shall submit the following question to voters, as provided  
30 in subsection 2, in the proposed E911 service area, and the  
31 question shall receive a favorable vote from a simple majority  
32 of persons submitting valid ballots on the following question  
33 within the proposed E911 service area:

34 Shall the following public measure be adopted?

35 YES ...

1 NO ...

2 Enhanced 911 emergency telephone service shall be funded,  
3 in whole or in part, by a monthly surcharge of (an amount  
4 determined by the local joint E911 service board of up to one  
5 dollar) on each telephone access line collected as part of each  
6 telephone subscriber's monthly phone bill if provided within  
7 (description of the proposed E911 service area).

8 Sec. 4. Section 34A.6A, Code 2011, is amended to read as  
9 follows:

10 **34A.6A Alternative surcharge.**

11 Notwithstanding section 34A.6, the board may request  
12 imposition of a an alternative surcharge in an amount up  
13 to two dollars and fifty cents per month on each telephone  
14 access line. The board shall submit the question of the  
15 alternative surcharge to voters in the same manner as provided  
16 in section 34A.6. Not less than sixty days before the date  
17 of the referendum, the board shall notify all local exchange  
18 service providers in the county or counties comprising  
19 the E911 service area that a referendum on an alternative  
20 surcharge will be held. Not less than thirty days before  
21 the date of the referendum, the board shall publish in a  
22 newspaper of general circulation in the county or counties  
23 comprising the E911 service area a statement of estimated  
24 costs as described in section 34A.2, subsection 9, paragraph  
25 "e", subparagraph (1), and justification of the need for the  
26 additional revenue. If approved, the alternative surcharge may  
27 be collected for a period of twenty-four months. At the end of  
28 the twenty-four-month period, the rate of the surcharge shall  
29 revert to one dollar per month, per access line.

30 Sec. 5. Section 34A.7, subsection 1, paragraph a,  
31 unnumbered paragraph 1, Code 2011, is amended to read as  
32 follows:

33 To encourage local implementation of E911 service, one  
34 source of funding for E911 emergency ~~telephone~~ communication  
35 systems shall come from a surcharge per month, per access

1 line on each access line subscriber, except as provided in  
2 subsection 5, equal to the lowest amount of the following:

3     Sec. 6. Section 34A.7, subsection 1, paragraph b,  
4 subparagraph (1), Code 2011, is amended to read as follows:

5     (1) The program manager shall notify a local exchange  
6 service provider scheduled to provide exchange access line  
7 service to an E911 service area that implementation of an E911  
8 service plan has been approved by the joint E911 service board  
9 and by the service area referendum and that collection of the  
10 surcharge is to begin within ~~one hundred~~ sixty days.

11     Sec. 7. Section 34A.7, subsection 2, paragraph b, Code 2011,  
12 is amended to read as follows:

13     b. A local exchange service provider is not liable for an  
14 uncollected surcharge for which the local exchange service  
15 provider has billed a subscriber but not been paid. The  
16 surcharge shall appear as a single line item on a subscriber's  
17 periodic billing entitled, "E911 emergency ~~telephone~~  
18 communications service surcharge".

19     Sec. 8. Section 34A.7, subsection 5, paragraph b,  
20 subparagraph (3), Code 2011, is amended to read as follows:

21     (3) If money remains in the fund after fully paying  
22 obligations under subparagraphs (1) and (2), the remainder may  
23 be accumulated in the fund as a carryover operating surplus.  
24 If the surplus is greater than twenty-five percent of the  
25 approved annual operating budget for the next year, the program  
26 manager shall reduce the surcharge by an amount calculated to  
27 result in a surplus of no more than twenty-five percent of the  
28 planned annual operating budget. After nonrecurring costs have  
29 been paid, if the surcharge is less than the maximum allowed  
30 and the fund surplus is less than twenty-five percent of the  
31 approved annual operating budget, the program manager shall,  
32 upon application of the joint E911 service board, increase the  
33 surcharge in an amount calculated to result in a surplus of  
34 twenty-five percent of the approved annual operating budget.  
35 The surcharge may only be adjusted once in a single year, upon



1 ~~one hundred sixty~~ sixty days' prior notice to the provider.

2 Sec. 9. Section 34A.7A, Code 2011, is amended to read as  
3 follows:

4 **34A.7A Wireless Emergency communications service surcharge —**  
5 **fund established — distribution and permissible expenditures.**

6 1. a. Notwithstanding section 34A.6, the administrator  
7 shall adopt by rule a monthly surcharge of up to sixty-five  
8 cents to be imposed on each ~~wireless~~ communications service  
9 number provided in this state. The surcharge shall be  
10 imposed uniformly on a statewide basis and simultaneously  
11 on all ~~wireless~~ communications service numbers as provided  
12 by rule of the administrator. The surcharge shall not be  
13 imposed on wire-line-based communications or prepaid wireless  
14 telecommunications service.

15 b. The program manager shall provide no less than ~~one~~  
16 ~~hundred sixty~~ sixty days' notice of the surcharge to be imposed to  
17 each ~~wireless~~ communications service provider. The program  
18 manager, subject to the sixty-five cent limit in paragraph "a",  
19 may adjust the amount of the surcharge as necessary, but no  
20 more than once in any calendar year.

21 c. (1) The surcharge shall be collected as part of the  
22 ~~wireless~~ communications service provider's periodic billing  
23 to a subscriber. The surcharge shall appear as a single  
24 line item on a subscriber's periodic billing indicating that  
25 the surcharge is for E911 emergency telephone communications  
26 service. ~~In the case of prepaid wireless telephone service,~~  
27 ~~this surcharge shall be remitted based upon the address~~  
28 ~~associated with the point of purchase, the customer billing~~  
29 ~~address, or the location associated with the mobile telephone~~  
30 ~~number for each active prepaid wireless telephone that has~~  
31 ~~a sufficient positive balance as of the last days of the~~  
32 ~~information, if that information is available.~~

33 (2) In compensation for the costs of billing and collection,  
34 the ~~wireless~~ communications service provider may retain one  
35 percent of the gross surcharges collected.

1 (3) The surcharges shall be remitted quarterly by the  
2 ~~wireless~~ communications service provider to the program manager  
3 for deposit into the fund established in subsection 2.

4 (4) A ~~wireless~~ communications service provider is not  
5 liable for an uncollected surcharge for which the ~~wireless~~  
6 communications service provider has billed a subscriber but  
7 which has not been paid.

8 2. Moneys collected pursuant to subsection 1 and section  
9 34A.7B, subsection 2, shall be deposited in a separate ~~wireless~~  
10 E911 emergency communications fund within the state treasury  
11 under the control of the program manager. Section 8.33 shall  
12 not apply to moneys in the fund. Moneys earned as income,  
13 including as interest, from the fund shall remain in the fund  
14 until expended as provided in this section. Moneys in the fund  
15 shall be expended and distributed in the following priority  
16 order:

17 a. An amount as appropriated by the general assembly to  
18 the administrator shall be allocated to the administrator and  
19 program manager for implementation, support, and maintenance of  
20 the functions of the administrator and program manager and to  
21 employ the auditor of state to perform an annual audit of the  
22 ~~wireless~~ E911 emergency communications fund.

23 ~~b. The program manager shall allocate twenty-one percent of~~  
24 ~~the total amount of surcharge generated to wireless carriers~~  
25 ~~to recover their costs to deliver E911 phase 1 services. If~~  
26 ~~the allocation in this paragraph is insufficient to reimburse~~  
27 ~~all wireless carriers for such carrier's eligible expenses,~~  
28 ~~the program manager shall allocate a prorated amount to each~~  
29 ~~wireless carrier equal to the percentage of such carrier's~~  
30 ~~eligible expenses as compared to the total of all eligible~~  
31 ~~expenses for all wireless carriers for the calendar quarter~~  
32 ~~during which such expenses were submitted. When prorated~~  
33 ~~expenses are paid, the remaining unpaid expenses shall no~~  
34 ~~longer be eligible for payment under this paragraph.~~

35 ~~c.~~ b. The program manager shall reimburse wire-line

1 ~~carriers~~ communication service providers on a calendar quarter  
 2 basis for carriers' eligible expenses for transport costs  
 3 between the selective router and the public safety answering  
 4 points related to the delivery of wireless E911 phase 1  
 5 services.

6 ~~d.~~ c. The program manager shall reimburse wire-line  
 7 carriers and third-party E911 automatic location information  
 8 database providers on a calendar quarterly basis for the  
 9 costs of maintaining and upgrading the E911 components and  
 10 functionalities beyond the input to the E911 selective router,  
 11 including the E911 selective router and the automatic location  
 12 information database.

13 ~~e.~~ ~~The program manager shall apply an amount up to~~  
 14 ~~five hundred thousand dollars per calendar quarter to any~~  
 15 ~~outstanding wireless E911 phase 1 obligations incurred pursuant~~  
 16 ~~to this chapter prior to July 1, 2004.~~

17 ~~f.~~ d. (1) ~~The program manager shall allocate an amount up~~  
 18 ~~to one hundred fifty-nine thousand dollars per calendar quarter~~  
 19 ~~equally to the joint E911 service boards and the department of~~  
 20 ~~public safety that have submitted an annual written request to~~  
 21 ~~the program manager in a form approved by the program manager~~  
 22 ~~by May 15 of each year.~~ The program manager shall allocate to  
 23 each joint E911 service board and to the department of public  
 24 safety a minimum of one thousand dollars per calendar quarter  
 25 for each public safety answering point within the service area  
 26 of the department of public safety or joint E911 service board  
 27 that has submitted an annual written request to the program  
 28 manager in a form approved by the program manager by May 15 of  
 29 each year.

30 (2) ~~Upon retirement of outstanding obligations referred to~~  
 31 ~~in paragraph "e", the~~ The amount allocated under this paragraph  
 32 ~~"f"~~ "d" shall be ~~twenty-five~~ forty-six percent of the total  
 33 amount of surcharge generated per calendar quarter allocated  
 34 as follows:

35 (a) Sixty-five percent of the total dollars available for

1 allocation shall be allocated in proportion to the square miles  
2 of the service area to the total square miles in this state.

3 (b) Thirty-five percent of the total dollars available for  
4 allocation shall be allocated in proportion to the wireless  
5 E911 calls taken at the public safety answering point in  
6 the service area to the total number of wireless E911 calls  
7 originating in this state.

8 (c) Notwithstanding subparagraph divisions (a) and (b), the  
9 minimum amount allocated to each joint E911 service board and  
10 to the department of public safety shall be no less than one  
11 thousand dollars for each public safety answering point within  
12 the service area of the department of public safety or joint  
13 E911 service board.

14 (3) The funds allocated in this paragraph ~~"f"~~ "d" shall  
15 be used for communication equipment located inside the public  
16 safety answering points for the implementation and maintenance  
17 of ~~wireless E911 phase 2 services~~. ~~The joint E911 service~~  
18 ~~boards and the department of public safety shall provide an~~  
19 ~~estimate of phase 2 implementation costs to the program manager~~  
20 ~~by January 1, 2005.~~

21 ~~g.~~ e. If moneys remain in the fund after fully paying  
22 all obligations under paragraphs ~~"a"~~ through ~~"f"~~ "d", the  
23 remainder may be accumulated in the fund as a carryover  
24 operating surplus. This surplus shall be used to fund  
25 future ~~phase 2~~ network and public safety answering point  
26 improvements, including hardware and software for an internet  
27 protocol-enabled next generation network, and wireless  
28 carriers' transport costs related to wireless E911 services, if  
29 those costs are not otherwise recovered by wireless carriers  
30 through customer billing or other sources and approved by the  
31 program manager. Notwithstanding section 8.33, any moneys  
32 remaining in the fund at the end of each fiscal year shall  
33 not revert to the general fund of the state but shall remain  
34 available for the purposes of the fund.

35 ~~h.~~ f. The administrator, in consultation with the program

1 manager and the E911 communications council, shall adopt  
 2 rules pursuant to chapter 17A governing the distribution of  
 3 the surcharge collected and distributed pursuant to this  
 4 subsection. The rules shall include provisions that all joint  
 5 E911 service boards and the department of public safety which  
 6 answer or service wireless E911 calls are eligible to receive  
 7 an equitable portion of the receipts.

8     3. *a.* The program manager shall submit an annual  
 9 report by January 15 of each year to the general assembly's  
 10 standing committees on government oversight advising the  
 11 general assembly of the status of E911 implementation and  
 12 operations, including both wire-line and wireless services, the  
 13 distribution of surcharge receipts, and an accounting of the  
 14 revenues and expenses of the E911 program.

15     *b.* The program manager shall submit a calendar quarter  
 16 report of the revenues and expenses of the E911 program to the  
 17 fiscal services division of the legislative services agency.

18     *c.* The general assembly's standing committees on government  
 19 oversight shall review the priorities of distribution of funds  
 20 under this chapter at least every two years.

21     4. The amount collected from a wireless communications  
 22 service provider and deposited in the fund, pursuant to  
 23 section 22.7, subsection 6, information provided by a wireless  
 24 communications service provider to the program manager  
 25 consisting of trade secrets, pursuant to section 22.7,  
 26 subsection 3, and other financial or commercial operations  
 27 information provided by a wireless communications service  
 28 provider to the program manager, shall be kept confidential as  
 29 provided under section 22.7. This subsection does not prohibit  
 30 the inclusion of information in any report providing aggregate  
 31 amounts and information which does not identify numbers of  
 32 accounts or customers, revenues, or expenses attributable to an  
 33 individual wireless communications service provider.

34     ~~5. For purposes of this section, "wireless communications~~  
 35 ~~service" means commercial mobile radio service, as defined under~~

~~1 sections 3(27) and 332(d) of the federal Telecommunications  
2 Act of 1996, 47 U.S.C. § 151 et seq.; federal communications  
3 commission rules; and the Omnibus Budget Reconciliation  
4 Act of 1993. "Wireless communications service" includes any  
5 wireless two-way communications used in cellular telephone  
6 service, personal communications service, or the functional or  
7 competitive equivalent of a radio-telephone communications line  
8 used in cellular telephone service, a personal communications  
9 service, or a network access line. "Wireless communications  
10 service" does not include services whose customers do not  
11 have access to 911 or a 911-like service, a communications  
12 channel utilized only for data transmission, or a private  
13 telecommunications system.~~

14     Sec. 10. NEW SECTION.   **34A.7B Prepaid wireless E911**  
15 **surcharge.**

16     1. As used in this section, unless the context otherwise  
17 requires:

18     *a. "Consumer"* means a person who purchases prepaid wireless  
19 telecommunications service in a retail transaction.

20     *b. "Department"* means the department of revenue.

21     *c. "Prepaid wireless E911 surcharge"* means the surcharge  
22 that is required to be collected by a seller from a consumer in  
23 the amount established under this section.

24     *d. "Provider"* means a person who provides prepaid wireless  
25 telecommunications service pursuant to a license issued by the  
26 federal communications commission.

27     *e. "Retail transaction"* means the purchase of prepaid  
28 wireless telecommunications service from a seller for any  
29 purpose other than resale.

30     *f. "Seller"* means a person who sells prepaid wireless  
31 telecommunications service to another person.

32     2. There is imposed a prepaid wireless E911 surcharge of  
33 thirty-three cents on each retail transaction or, on or after  
34 the determination of an adjusted rate as determined pursuant to  
35 subsection 7, the adjusted rate.

1     3. The prepaid wireless E911 surcharge shall be collected  
2 by the seller from the consumer with respect to each retail  
3 transaction occurring in this state. The amount of the prepaid  
4 wireless E911 surcharge shall be either separately stated on an  
5 invoice, receipt, or other similar document that is provided  
6 to the consumer by the seller, or otherwise disclosed to the  
7 consumer.

8     4. For purposes of subsection 3, a retail transaction that  
9 is effected in person by a consumer at a business location  
10 of the seller shall be treated as occurring in this state if  
11 that business location is in this state, and any other retail  
12 transaction shall be treated as occurring in this state if the  
13 retail transaction is treated as occurring in this state for  
14 purposes of section 423.20 as that section applies to sourcing  
15 of a prepaid wireless calling service.

16     5. The prepaid wireless E911 surcharge is the liability of  
17 the consumer and not of the seller or of any provider, except  
18 that the seller shall be liable to remit all prepaid wireless  
19 E911 surcharges that the seller collects from consumers  
20 as provided in subsection 3, including all such surcharges  
21 that the seller is deemed to collect where the amount of  
22 the surcharge has not been separately stated on an invoice,  
23 receipt, or other similar document provided to the consumer by  
24 the seller.

25     6. The amount of the prepaid wireless E911 surcharge that  
26 is collected by a seller from a consumer, if such amount is  
27 separately stated on an invoice, receipt, or other similar  
28 document provided to the consumer by the seller, shall not  
29 be included in the base for measuring any tax, fee, other  
30 surcharge, or other charge that is imposed by this state, any  
31 political subdivision of this state, or any intergovernmental  
32 agency.

33     7. The prepaid wireless E911 surcharge shall be increased  
34 or reduced, as applicable, in an amount proportionate to  
35 any change to the surcharge imposed under section 34A.7A,

1 subsection 1. The proportional increase or reduction shall  
2 be effective on the first day of the calendar month after the  
3 effective date of the change to the surcharge imposed under  
4 section 34A.7A, subsection 1. The department shall provide  
5 not less than thirty days' advance notice of such increase or  
6 reduction on the department's internet site.

7 8. If a minimal amount of prepaid wireless  
8 telecommunications service is sold with a prepaid wireless  
9 device for a single, nonitemized price, the seller may elect  
10 not to apply the prepaid wireless E911 surcharge to the retail  
11 transaction. For purposes of this subsection, an amount of  
12 service denominated as ten minutes or less, or five dollars or  
13 less, shall be regarded as a minimal amount of service.

14 9. Prepaid wireless E911 surcharges collected by sellers  
15 shall be remitted to the department at the times and in the  
16 manner provided by chapter 423 with respect to the sales  
17 and use tax. The department shall establish registration  
18 and payment procedures that substantially coincide with the  
19 registration and payment procedures that apply to sellers under  
20 chapter 423.

21 10. A seller may deduct and retain three percent of prepaid  
22 wireless E911 surcharges that are collected by the seller from  
23 consumers.

24 11. The audit and appeal procedures applicable under  
25 chapter 423 shall apply to prepaid wireless E911 surcharges.

26 12. The department shall establish procedures by which  
27 a seller of prepaid wireless telecommunications service  
28 may document that a sale is not a retail transaction, which  
29 procedures shall substantially coincide with the procedures for  
30 documenting sale for resale transactions under chapter 423.

31 13. The department shall transfer all remitted prepaid  
32 wireless E911 surcharges to the treasurer of state for deposit  
33 in the E911 emergency communications fund created under section  
34 34A.7A, subsection 2, within thirty days of receipt after  
35 deducting an amount, not to exceed two percent of collected



1 surcharges, that shall be retained by the department to  
2 reimburse its direct costs of administering the collection and  
3 remittance of prepaid wireless E911 surcharges.

4 14. The limitation of actions provisions under section  
5 34A.7, subsection 6, shall apply to providers and sellers of  
6 prepaid wireless telecommunications service. In addition,  
7 a provider or seller of prepaid wireless telecommunications  
8 service shall not be liable for damages to any person resulting  
9 from or incurred in connection with the provision of any lawful  
10 assistance to any investigative or law enforcement officer of  
11 the United States, this or any other state, or any political  
12 subdivision of this or any other state, in connection with any  
13 lawful investigation or other law enforcement activity by such  
14 investigative or law enforcement officer.

15 15. The prepaid wireless E911 surcharge imposed pursuant to  
16 this section shall be the only E911 funding obligation imposed  
17 with respect to prepaid wireless telecommunications service  
18 in this state, and no tax, fee, surcharge, or other charge  
19 shall be imposed by this state, any political subdivision of  
20 this state, or any intergovernmental agency, for E911 funding  
21 purposes, upon any provider, seller, or consumer with respect  
22 to the sale, purchase, use, or provision of prepaid wireless  
23 telecommunications service.

24 Sec. 11. Section 34A.15, subsection 1, paragraph c, Code  
25 Supplement 2011, is amended to read as follows:

26 c. One person appointed by the Iowa ~~association of chiefs of~~  
27 ~~police and peace officers~~ association.

28 Sec. 12. E911 TASK FORCE.

29 1. The homeland security and emergency management division  
30 of the department of public defense shall convene a task force  
31 of stakeholders to consider and offer recommendations regarding  
32 needed upgrades and enhancements to the state's E911 programs.  
33 Stakeholders shall include public safety and emergency  
34 management representatives, local public safety answering  
35 point personnel, telecommunications service providers, and

1 state agencies that are directly involved in administering and  
2 providing E911 services in this state. Aspects of E911 service  
3 delivery for consideration by the task force shall include but  
4 not be limited to the following:

5 a. Enhanced technology needs of local E911 public safety  
6 answering points to ensure timely, quality emergency response  
7 services.

8 b. Identification of new wireless technologies used in E911  
9 service delivery.

10 c. Funding needs to meet state and federal emergency  
11 communications technology mandates.

12 d. Potential wireless and wire-line surcharge adjustments  
13 to meet E911 service delivery demands, including specific  
14 recommendations on surcharge equalization and on the  
15 distribution formula of surcharge revenues.

16 e. Local and state E911 administration and governance.

17 2. The task force shall submit a report containing  
18 recommendations to the general assembly by December 1, 2012.

19 Sec. 13. EFFECTIVE DATE. The section of this Act enacting  
20 section 34A.7B takes effect January 1, 2013.

21 Sec. 14. APPLICABILITY. The section of this Act enacting  
22 section 34A.7B applies to retail sales of prepaid wireless  
23 telecommunications service on or after January 1, 2013.

24 EXPLANATION

25 This bill makes several changes regarding the provisions of  
26 Code chapter 34A, relating to enhanced 911 emergency telephone  
27 systems.

28 The bill modifies definitions applicable to the Code  
29 chapter. The bill provides that a "communications service"  
30 means a service capable of accessing, connecting with, or  
31 interfacing with a 911 system by dialing, initializing,  
32 or otherwise activating the system exclusively through the  
33 digits 911 by means of a local telephone device or wireless  
34 communications device.

35 The bill provides that a "communications service provider"

1 means a service provider, public or private, that transports  
2 information electronically via landline, wireless, internet,  
3 cable, or satellite. The bill changes references to the  
4 wireless communications surcharge contained in Code section  
5 34A.7A to an "emergency communications service surcharge",  
6 and adds a definition accordingly which references that Code  
7 section.

8 The bill removes a provision contained within the definition  
9 of an "enhanced 911 service plan" relating to allocation of  
10 funds deposited in an E911 service fund to delete inclusion of  
11 costs for portable and vehicle radios, communication towers  
12 and associated equipment, and other radios and associated  
13 equipment permanently located at a public safety answering  
14 point. The bill specifies that an enhanced 911 service  
15 plan shall incorporate a plan to migrate to an internet  
16 protocol-enabled next generation network. The bill adds a  
17 definition of "prepaid wireless telecommunications service"  
18 to mean a wireless communications service that provides the  
19 right to utilize mobile wireless service as well as other  
20 nontelecommunications services, including the download  
21 of digital products delivered electronically, content and  
22 ancillary services, which must be paid for in advance and that  
23 is sold in predetermined units or dollars of which the amount  
24 declines with use in a known amount.

25 The bill also adds a definition of "wireless communications  
26 service" to mean commercial mobile radio service, including  
27 any wireless two-way communications used in cellular telephone  
28 service, personal communications service, or the functional or  
29 competitive equivalent of a radio-telephone communications line  
30 used in cellular telephone service, a personal communications  
31 service, or a network access line, and not including a service  
32 whose customers do not have access to 911 or 911-like service,  
33 a communications channel utilized only for data transmission,  
34 or a private telecommunications system. The bill adds a  
35 definition of "wireless communications service provider" to

1 mean a company that offers commercial mobile radio service to  
2 users of wireless devices including but not limited to cellular  
3 telephone services, personal communications services, mobile  
4 satellite services, and enhanced specialized mobile radio. The  
5 bill deletes a definition of "wireless communications service"  
6 currently contained in Code section 34A.7A, subsection 5, as  
7 being encompassed within the definitions added by the bill,  
8 and also deletes a definition of "emergency 911 notification  
9 device" which is not currently referred to within the Code  
10 chapter.

11 The bill deletes a requirement that a state agency having  
12 a public safety agency within its territory or jurisdiction  
13 must participate in a joint E911 service board and cooperate in  
14 maintaining the E911 service plan, but retains that requirement  
15 with reference to political subdivisions.

16 The bill adds a reference to "wire-line" surcharges with  
17 respect to the surcharge contained in Code section 34A.6, to  
18 clarify that it applies to wire-line, rather than wireless,  
19 communications and to promote consistency with the local  
20 wire-line E911 service surcharge imposed pursuant to Code  
21 section 34A.7. The bill deletes references to "telephone"  
22 communications systems and surcharges contained in Code section  
23 34A.7, in favor of the broader "emergency" communication  
24 systems and surcharges.

25 The bill specifies 60-day local exchange service provider  
26 advance notification requirements with regard to conducting a  
27 referendum relating to imposition of the alternative wire-line  
28 surcharge pursuant to Code section 34A.6A, and provides that  
29 not less than 30 days prior to the referendum the E911 service  
30 board shall publish a statement of estimated costs and a  
31 justification of the need for additional revenue. The bill  
32 makes consistent changes regarding notification of surcharge  
33 imposition in relation to the wire-line E911 service surcharge  
34 and the emergency communications service surcharge.

35 The bill specifies that the emergency communication services

1 surcharge contained in Code section 34A.7A shall not be  
2 imposed on wire-line-based communications or prepaid wireless  
3 telecommunications service, deletes references to "telephone"  
4 devices and services contained in the Code section, and deletes  
5 references to "wireless" communications service providers and  
6 the "wireless" E911 emergency communications fund.

7     The bill deletes a provision that 21 percent of emergency  
8 communications service surcharge revenue shall be allocated  
9 to wireless carriers to recover the costs of delivering E911  
10 phase I services, and correspondingly increases an allocation  
11 of the revenue to local public safety answering points and  
12 the department of public safety from a current level of 25  
13 percent to 46 percent. The bill deletes a requirement that  
14 up to \$500,000 per calendar quarter of surcharge funds shall  
15 be applied to specified outstanding wireless E911 phase 1  
16 obligations; deletes a requirement that up to \$159,000 per  
17 calendar quarter shall be allocated equally to joint E911  
18 service boards and the department of public safety if annual  
19 written request forms have been submitted; and qualifies  
20 that an allocation to each service board and the department  
21 of public safety of a minimum of \$1,000 per calendar quarter  
22 for each public safety answering point must be pursuant to an  
23 annual written request. The bill adds hardware and software  
24 for an internet protocol-enabled next generation network to  
25 permissible uses of carryover operating surplus moneys.

26     The bill deletes a provision imposing the emergency  
27 communications service surcharge on prepaid wireless  
28 telecommunications services, and creates a new and separate  
29 prepaid wireless E911 surcharge imposed on retail purchases of  
30 prepaid wireless telecommunications service made on or after  
31 January 1, 2013. The surcharge shall be 33 cents applied  
32 to each retail prepaid wireless transaction, which may be  
33 increased or decreased in a proportionate amount corresponding  
34 to any increase or decrease in the emergency communications  
35 service surcharge level. The bill adds conforming provisions

1 regarding collection and deposit of the surcharge, withholding  
2 of specified amounts by a seller and the department of revenue  
3 for administrative purposes, and provides limited liability  
4 protection under specified circumstances.

5     The bill changes a current reference to the Iowa association  
6 of chiefs of police and peace officers to the Iowa peace  
7 officers association regarding appointments to the E911  
8 communications council.

9     Additionally, the bill directs the homeland security  
10 and emergency management division of the department of  
11 public defense to convene an E911 task force of identified  
12 stakeholders to consider and offer recommendations regarding  
13 needed upgrades and enhancements to the state's E911 programs.  
14 The task force is required to submit a report to the general  
15 assembly by December 1, 2012.

16     The bill provides that the provisions establishing the  
17 prepaid wireless E911 surcharge take effect January 1,  
18 2013, and are applicable to retail sales of prepaid wireless  
19 telecommunications service occurring on or after that date.